

## JUSTICE NEWS

### Department of Justice

Office of Public Affairs

FOR IMMEDIATE RELEASE

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## **ADM Subsidiary Pleads Guilty to Conspiracy to Violate the Foreign Corrupt Practices Act**

A subsidiary of Archer Daniels Midland Company (ADM) pleaded guilty today and has agreed to pay more than \$17 million in criminal fines to resolve charges that it paid bribes through vendors to Ukrainian government officials to obtain value-added tax (VAT) refunds, in violation of the Foreign Corrupt Practices Act (FCPA).

Acting Assistant Attorney General Mythili Raman of the Justice Department's Criminal Division, U.S. Attorney James A. Lewis of the Central District of Illinois and Special Agent in Charge David A. Ford of the FBI's Springfield Division made the announcement.

"As today's guilty plea shows, paying bribes to reap business benefits corrupts markets and undermines the rule of law," said Acting Assistant Attorney General Raman. "ADM's subsidiaries sought to gain a tax benefit by bribing government officials, and then attempted to deliberately conceal their conduct by funneling payments through local vendors. ADM, in turn, failed to implement sufficient policies and procedures to prevent the bribe payments, although ultimately ADM disclosed the conduct, cooperated with the government, and instituted extensive remedial efforts. Today's corporate guilty plea demonstrates that combating bribery is and will remain a mainstay of the Criminal Division's mission. We are committed to working closely with our foreign and domestic law enforcement partners to fight global corruption."

Alfred C. Toepfer International Ukraine Ltd. (ACTI Ukraine), a subsidiary of ADM, pleaded guilty in the Central District of Illinois to one count of conspiracy to violate the anti-bribery provisions of the FCPA and agreed to pay \$17.8 million in criminal fines. The Department of Justice also entered into a non-prosecution agreement (NPA) with ADM in connection with the company's failure to implement an adequate system of internal financial controls to address the making of improper payments both in Ukraine and by an ADM joint venture in Venezuela.

In a parallel action, ADM consented with the U.S. Securities and Exchange Commission (SEC) to a proposed final judgment that orders the company to pay roughly \$36.5 million in disgorgement and prejudgment interest, bringing the total amount of U.S. criminal and regulatory penalties to be paid by ADM and its subsidiary to more than \$54 million.

According to the charges, from 2002 to 2008, ACTI Ukraine, a trader and seller of commodities based in the Ukraine, together with Alfred C. Toepfer International G.m.b.H. (ACTI Hamburg), another subsidiary of ADM, paid third-party vendors to pass on bribes to Ukrainian government officials to obtain VAT refunds. The charges allege that, in total, ACTI Ukraine and ACTI Hamburg paid roughly \$22 million to two vendors, nearly all of which was to be passed on to Ukrainian government officials to obtain over \$100 million in VAT refunds, resulting in a benefit to ACTI Ukraine and ACTI Hamburg of roughly \$41 million.

According to the NPA with ADM, a number of concerns were expressed to ADM executives, including an e-

mail calling into question potentially illegal “donations” by ACTI Ukraine and ACTI Hamburg to recover the VAT refunds, yet nonetheless failed to implement sufficient anti-bribery compliance policies and procedures to prevent corrupt payments.

In addition to the monetary penalty, ADM and ACTI Ukraine also agreed to cooperate with the department, to periodically report the companies’ compliance efforts, and to continue implementing enhanced compliance programs and internal controls designed to prevent and detect FCPA violations.

The agreements acknowledge ADM’ s timely, voluntary and thorough disclosure of the conduct; ADM’ s extensive cooperation with the department, including conducting a world-wide risk assessment and corresponding global internal investigation, making numerous presentations to the department on the status and findings of the internal investigation, voluntarily making current and former employees available for interviews, and compiling relevant documents by category for the department; and ADM’ s early and extensive remedial efforts.

The department acknowledges and expresses its appreciation for the cooperation and assistance of German law enforcement authorities, which, in a parallel investigation, reached a resolution with ACTI Hamburg regarding its role in the bribery scheme.

In addition, the department acknowledges and expresses its appreciation for the significant assistance provided by the SEC’ s Division of Enforcement.

This ongoing investigation is being conducted by the FBI. The case is being prosecuted by Trial Attorney Daniel S. Kahn of the Criminal Division’ s Fraud Section and Assistant U.S. Attorney Eugene Miller of the Central District of Illinois, with significant assistance from the Criminal Division’ s Office of International Affairs.

Additional information about the Justice Department’ s FCPA enforcement efforts can be found at [www.justice.gov/criminal/fraud/fcpa](http://www.justice.gov/criminal/fraud/fcpa) .

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